

UNITED STATES CIVIL SERVICE COMMISSION
Office of the Executive Director
Interagency Advisory Group
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Washington, D.C. 20415

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Minutes of the IAG Adverse Action
and Appeals Committee
April 21, 1978

Wilma Lehman of the Policy Analysis and Development Division of the Bureau of Policies and Standards chaired the meeting, assisted by Mr. Ladd Hamilton of the Inspector General's Office of the Department of Health, Education, and Welfare.

Collection of statistical information on agency grievances, discipline, and adverse actions

Mrs. Lehman brought to the Committee's attention a project of CSC's Bureau of Personnel Management Information Systems to determine, with the help of a committee of agency people, the cost and difficulty involved in gathering various statistical data in a large number of personnel areas. Currently, all that is available is on the Standard Form 50's, from special reports, or is collected under CSC's own programs, e.g., appeals information collected by FEAA. The Commission is trying to find out what else can and should be made available to those who have a real need for the information. Concerning this project, two Committee members indicated their belief that it would be worthwhile for the members to consider, not cost implications, which are already being considered, but the program implications of obtaining such information, even where it might be useful for the Commission and other agencies to have.

One of the concerned members said that, despite the belief of those working on the project, the list of information items suggested for collection far exceeds anything presently collected, and that collecting it may have a chilling effect on disciplinary and adverse actions. Getting information on grievances at the informal stage would be difficult, since at that stage grievances may not even be recognized as such. He feels that the Commission's Bureau of Personnel Management Information Systems is not the right body to consider the program implications; rather, the IAG committees should review each requested data item within their areas of concern to see whether it makes sense and is worth the trouble in terms of its possible effect on operations. Members agreed that this should be done concerning items on grievances, discipline, and adverse actions by the Committee at the next regularly scheduled meeting.



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Report on Project Match (identification of Federal employees who are receiving public assistance to which they have no entitlement)

Mr. Hamilton gave some of the background on Project Match, beginning in April 1977 as a computer match between the HEW payroll and Aid to Families with Dependent Children (AFDC) recipients' files from 26 states and jurisdictions. If there was a match of social security numbers from these sources ("raw hit"), HEW then checked the "hit" against the HEW payroll. Information concerning D.C. employees about whom there was a question was then referred to the Department of Human Resources in D.C. to ascertain whether the employees had reported HEW income to assistance payment workers, were receiving appropriate amounts of assistance, or whether the assistance would be reduced. Some cases then went to the U.S. Attorney in D.C., others to HEW personnel officers and other officials to determine whether any adverse action or other disciplinary action should be initiated.

Under Project Match, 7 to 8 million AFDC recipients' files have been checked against the Federal employee payroll records. There have been close to 25,000 raw hits, which will be referred to each Federal agency to check out payroll data. The results of this procedure will be sent by HEW personnel to welfare departments, and if they match welfare files and the employee-client is ineligible or entitled to a lesser amount, the grant will be terminated or reduced, and the information will be remanded to agencies for their consideration of possible administrative action. Some cases will be referred to U.S. Attorneys for investigation and possible prosecution; these cases will also be remanded to Federal agencies for consideration of administrative sanctions.

Ultimately, HEW must report to the Congress what actions have been taken. Upon completion, the computer tapes will be destroyed or returned to CSC and the State welfare agencies. Mr. Hamilton gave members copies of a memorandum of understanding signed by Attorney General Bell, Secretary Califano of HEW, and Chairman Campbell of CSC, concerning this project.

He requested the views of the Committee on the sort of information from welfare agencies which would be necessary for the Federal agencies to determine the need for possible adverse action and upon which an adverse action would be sustained. He believes that some form of action is necessary where appropriate to reestablish the credibility of the system and to deter future abuses of it, and that due process protections must be followed.

Among comments and suggestions by members:

- Agencies should process any action uniformly within the agency in accordance with their own guidelines and regulations. HEW guidelines, while satisfactory for HEW, may not be equally so for other agencies.

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- Agency personnel cannot propose discipline on the basis of a letter alleging overpayment to an employee. They need all documentation showing that the employee knowingly received overpayment. Witnesses may be necessary or not depending on the severity of the situation.
- One of the important things agencies must consider is the relationship between the offense and the duties of the employee's position. With this nexus established, taking appropriate action is not difficult.
- One member asked whether, since due process is presently provided in State welfare agency cases, with the right to a hearing before a decision is made, it is necessary for the agency to prove nonentitlement all over again after the State agency's decision. Could the agency not rely on the State decision, just as it might rely solely on a conviction as the reason for taking adverse action? Others pointed out that they could not propose an employee's removal based only on a conviction, but must show the nexus between that and the employee's job.
- What efforts are being made to retrieve the money wrongfully paid? If restitution is sought, and the employee then fails to pay this just debt, appropriate adverse action can then be proposed for failure to do so. Mr. Hamilton said that the State agencies must require restitution and make every effort to obtain such restitution.
- Suspensions, recommended in the HEW guidelines, would not seem appropriate in these cases where an employee owes money, any more than they would be in ordinary indebtedness cases. Another member said that theft, as these cases seem to involve, is not at all the same as indebtedness. Others questioned whether the agencies could decide whether these overpayments were legally theft, or whether that was not a matter for the courts to determine. Rather, receipt of payment when not entitled to it could be considered misconduct, for which the appropriate action should be taken. However, the fact of noneligibility for payment is not in itself enough to demonstrate that there has been misappropriation of funds.
- Rather than being predetermined based on a set of guidelines, the penalty in any of these cases should be determined only after all the facts have been

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considered, including the amount owed, the type of job, mitigating factors, and whether restitution is being made, etc.

Mr. Hamilton concluded by saying that welfare agencies would not know what information would be necessary without advice from the agencies. He wants to be able to give agencies at one time sufficient data for their purposes. In order to accomplish this, he asked for members to go with him to visit area welfare offices to see what material is available and how it can best be supplied. Several members agreed to do so.